

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

JOSE CESPEDES,

Defendant.

20 Cr. 369-01 (LGS)

ORDER

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on March 16, 2021, Defendant pleaded guilty to Conspiracy to Distribute and Possess with Intent to Distribute Heroin. On November 1, 2021, the Court found that Defendant had a Total Offense Level of 31 and a Criminal History Category of IV, resulting in an advisory Guidelines range of 151 to 188 months' imprisonment. Defendant was sentenced principally to a below-Guidelines term of imprisonment of 84 months.

WHEREAS, on January 23, 2024, Defendant filed a motion for a sentence reduction pursuant to Amendment 821 to the Sentencing Guidelines, which went into effect on November 1, 2023, and applies retroactively. On June 3, 2024, the Government filed a letter in opposition.

WHEREAS, on February 21, 2024, the Probation Department issued a Supplemental Presentence Report ("Supplemental PSR"), which concludes that Defendant appears to be eligible for a status point recalculation under the changes to U.S.S.G. § 4A1.1 but is ineligible for a sentence reduction because the original sentence was below the low the end of the amended Guidelines range.

WHEREAS, Defendant does not meet the criteria to qualify for a “zero-point offender” offense level reduction pursuant to U.S.S.G. § 4C1.1 because, based on his prior criminal history, he does not have zero criminal history points.

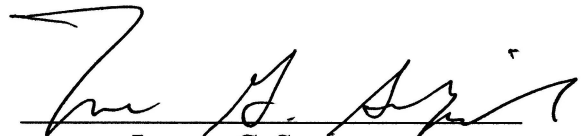
WHEREAS, the Court agrees with the Supplemental PSR that Defendant is eligible for a reduction in his criminal history category. The reduction is due to eliminating the criminal history enhancement for having committed the instant offense while under a criminal justice sentence for probation, resulting in a criminal history score of 6 instead of 8. This reduction takes Defendant from criminal history category IV to category III, which results in a reduction in the recommended Guideline range of 151 to 188 months, to a lower range of 135 to 168 months.

WHEREAS, under U.S.S.G § 1B1.10(b)(2)(A), Defendant is ineligible for a reduction in sentence because his original sentence of 84 months is less than the minimum of the amended Guidelines range of 135 to 168 months.

ORDERED that Defendant’s motion for a reduction of sentence is **DENIED**.

The Clerk of Court is respectfully directed to close the motion at Dkt. No. 102.

Dated: December 2, 2024
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE